

**MINNESOTA SURETY AND TRUST COMPANY  
107 WEST OAKLAND AVE.  
AUSTIN, MN 55912**

**NAIC COMPANY 30996**

**MARKET CONDUCT EXAMINATION REPORT**

**As of  
December 31, 2002**

**PREPARED BY INDEPENDENT CONTRACTORS  
IN COORDINATION WITH  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

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Colorado Division of Insurance

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**Prepared by**

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May 28, 2003

The Honorable Doug Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., a targeted examination of the Minnesota Surety and Trust Company's Bail Bond business has been conducted. The Company's records were examined at the office of the Company located at 107 West Oakland Avenue, Austin, MN 55912. The examination covered the calendar year of January 1, 2002 through December 31, 2002.

A report of the examination of the Minnesota Surety and Trust Company is respectfully submitted.

John J. Postolowski, CIE, MA, FLMI, AIRC, ACS  
Chief Examiner, Market Conduct Section

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**MARKET CONDUCT  
EXAMINATION REPORT  
OF THE  
MINNESOTA SURETY AND TRUST COMPANY**

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### **COMPANY HISTORY AND PROFILE**

Minnesota Trust Company of Austin (MTC/Company) was incorporated in the State of Minnesota on August 28, 1945 and commenced business as a property and casualty insurer.

The Company is Minnesota domiciled and licensed in Minnesota, Colorado, Montana, Utah, North Dakota and South Dakota. Lines of business include the following surety and fidelity types: bail bonds, judicial court and probate bonds; public or Federal official bonds; fiduciary, notary and estate bonds; contractors bonds and miscellaneous license and permit bonds. The Company has also continued to write motor vehicle bonds and oil well plugging and reclamation bonds with enhanced collateral requirements. The Company also provides trust services primarily to individuals in Minnesota.

The Company became licensed in Colorado on December 5, 1990 and in June through August of 1991; MTC began soliciting independent agents in Colorado to write surety bonds. The first bail bond agent was appointed in January 1996 and MTC began writing bail bonds at that time.

Effective January 1, 2000, the Company legally changed its name to Minnesota Surety and Trust Company. (MSTC/Company)

Peter D. Plunkett is the President of Minnesota Surety and Trust Company. The Plunkett family owns First Heartland Investment Company. First Heartland Investment Company owns 100% of First Heartland Surety & Casualty Insurance Services Company, which owns approximately 76% of the capital stock of MSTC. The Richard Trow family through various trusts, which are managed by MSTC, owns the remaining 24%.

The Company provided a written summary of its antifraud plan, which was filed with the Colorado Division of Insurance along with its annual report. MSTC maintains an anti-fraud plan designed to assist in the prevention, detection and investigation of internal fraud by employees, agents and third parties, as well as external fraud by insureds and claimants. Since the fraud plan was put into effect in 1994, MSTC has not experienced insurance fraud. MSTC closely monitors all bonds that are given to its agents. Field representatives audit agents' bond supplies annually.

The Company's Disaster Recovery Plan was provided to the examiners for review. A financial examination by the State of Minnesota in 2001 made recommendations related to the Disaster Recovery Plan information systems; namely, to develop security, back ups and off site storage for all data and to complete and test disaster recovery and business continuity plans. The Company appears to have complied with those recommendations by having all computer files backed up via an Internet connection automatically each evening by an off site company and by using other various methods to back up all business records.

The Company has conducted on-site annual audits of its producers.

The Company reported 1,701 bail bonds posted in 2002. The gross written premium for Bail Bonds in Colorado was \$541,458.

### **PURPOSE AND SCOPE OF EXAMINATION**

This targeted market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and generally accepted operating principles related to Bail Bond insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report, the examiners relied primarily on records and material maintained by the Company and its agents. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2002 to December 31, 2002.

File sampling was based on a review of underwriting files systematically selected from file runs provided by the company and its agents. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

The report addresses only Bail Bond issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Marketing and Sales
3. Producers/Agents
4. Underwriting: Applications, Forms and Rates
5. Claim Handling, including forfeiture judgments and return of collateral

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.



### **EXAMINATION REPORT SUMMARY**

There was a field of 1,701 bonds reported by the company as being posted in the calendar year of 2002 from which fifty (50) were systematically selected. These files were reviewed for compliance with Colorado insurance law. From a population of twenty-nine (29) agents, three (3) primary agents and their sub agents totaling ten (10) agents were selected for examination.

The examination resulted in seven (7) issues arising from the Company and its producers' failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

#### **Company Operations and Management:**

In the area of company operations and management, one (1) compliance issue is addressed in this report. This issue arises from Colorado insurance law that must be complied with in the writing of bail bond business. The issue in this phase is identified as follows:

- Failure to adequately monitor agents' activities noted under the producers' section herein.

#### **Producers/Agents:**

In the area of Producers/Agents, six (6) compliance issues are addressed in this report. These issues arise from Colorado insurance law that must be complied with in the writing of bail bond business. The issues in this phase are identified as follows:

- Failure, in some cases, of agents to fulfill fiduciary responsibilities by commingling funds.
- Failure, in some cases, of agents to register an assumed (trade) name being used.
- Failure, in some cases, of agents to have a fraud statement affixed to the applications
- Failure, in some cases, of agents to file annual bail bond reports with the Colorado Division of Insurance.
- Failure, in some cases, of agents to charge the same premium for bonds of like amounts.
- Failure, in some cases, of agents to report the same premium as charged for the bonds written.

**Marketing and Sales:**

In the area of marketing and sales, no compliance issues are addressed in this report:

**Underwriting:**

In the area of underwriting, no compliance issues are addressed in this report.

**Claim Handling, including Forfeiture Judgments and Return of Collateral**

In the area of claim handling, no compliance issues are addressed in this report.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.

**MINNESOTA SURETY AND TRUST COMPANY**

**FACTUAL FINDINGS**

**BAIL BONDS**

**MARKET CONDUCT EXAMINATION**

**FACTUAL FINDINGS**

**COMPANY OPERATIONS/MANAGEMENT**

**Issue A: Failure, in some cases to adequately monitor producers' activities.**

Section 10-1-127(6)(a)(I), C.R.S., Fraudulent insurance acts – immunity for furnishing information relating to suspected insurance fraud – legislative declaration, requires, in part:

. . . . Each anti-fraud plan shall outline specific procedures, appropriate to the type of insurance provided by the insurance company in Colorado, to:

(I) Prevent, detect, and investigate all forms of insurance fraud, including fraud by the insurance company's employees and agents, fraud resulting from false representations or omissions of material fact in the application for insurance, renewal documents, or rating of insurance policies, claims fraud, and security of the insurance company's data processing systems:

MSTC has established procedures to audit its producers' activities at least annually, but has failed to provide adequate monitoring which appears to be a violation of Colorado insurance law as follows:

1. Section 10-2-704, C.R.S., Fiduciary responsibilities, states:

(3) No insurance producer under this article shall commingle premiums belonging to insurers and returned premiums belonging to insureds with the producer's personal funds or with any other funds except those directly connected with the producer's insurance business.

Section 12-7-109, C.R.S., Prohibited activities - penalties, states:

(1) It is unlawful for any licensee under this article to engage in any of the following activities:

(k) Accept anything of value from a person on whose bond such licensee is indemnitor or from another on behalf of such principal except the premium; except that the bail bonding agent licensed under this article may accept collateral security or other indemnity from the person on whose bond such bail bonding agent is indemnitor or from another on behalf of such principal. All such collateral or other indemnity shall be returned pursuant to the requirements contained in paragraph (d.5) of this subsection (1). The bail bonding agent licensed under this article shall preserve and separately retain such collateral and shall be responsible for the return of all such collateral taken and shall be liable for failure thereof as will also be the surety company. When a bail bonding agent accepts collateral as security pursuant to this paragraph (k), such bail bonding agent shall give a written receipt for such collateral to the person on whose bond such bail bonding agent is indemnitor or to another on behalf of such principal and the surety, which shall provide in detail a full description of the collateral received. In the event of the failure of or inability for any reason of a bail bonding agent or such bail bonding agent's heirs or assignees to return collateral as required in this paragraph (k), the commissioner or the commissioner's designee is authorized to take immediate possession of the collateral and take whatever actions are necessary and appropriate to assure compliance with the obligations of this article relating to the return of collateral. The commissioner is

authorized to utilize any or all of the qualification bond required in section 12-7-103(3) for any costs incurred. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation. The commissioner shall forfeit a qualification bond in the amount necessary to pay any final, nonappealable judgment award for failure to return collateral, including costs and attorney's fees, if awarded.

Regulation 1-2-1, Concerning Agent Fiduciary Responsibilities, promulgated under the authority of §§ 10-1-108(8), 10-1-109, 10-2-220 and 10-3-1110, Colorado Revised Statutes (C.R.S.), states:

### III Rule

(B) Upon receipt, the insurance producer must treat all premiums and returned premiums in a fiduciary capacity, including but not limited to the following:

- (1). Upon receipt the insurance producer must treat all premium and return premiums as trust funds and segregate them from his own funds, and
- (2). The insurance producer must keep an accurate record of all fiduciary funds, and
- (3). The insurance producer must not treat insurance premiums or returned premiums as a personal or business asset, and . . .

A review of the banking records of nine (9) of the ten (10) agents examined indicated that one (1) of the agents may be commingling funds, as a separate fiduciary trust account is not being maintained. The Company failed to monitor and ensure that agents were not commingling funds.

### 2. Section 10-2-701, C.R.S.-Assumed names-registration, states:

Any insurance producer using an assumed name, including without limitation a trade or fictitious name, under which the insurance producer conducts business shall register the name with the insurance commissioner prior to using the assumed name. The commissioner shall not accept registration of any name that is similar to another currently on file, that would tend to be misleading to the public, or that is identical or similar to the name of any producer whose license has been revoked or suspended. Every insurance producer licensee shall promptly file with the commissioner a written notice of any change in or discontinuation of the use of any name. The commissioner may promulgate all rules necessary and proper to implement the provisions of this section.

One (1) of the four (4) agents operating their bail bond business under an assumed/trade name failed to register the trade name with the Division of Insurance. The Company failed to monitor and ensure that its agents had registered any trade name being used.

3. Section 10-1-127(6)(a)(I)(7)(a), C.R.S.- Fraudulent insurance acts...fraud statement states, in part:

On and after January 1, 1997, each insurance company shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, a statement in conspicuous nature, permanently affixed to the application, insurance policy, or claim form substantially the same as the following: "It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines denial of insurance, and civil damages. An insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policy holder or claimant for the purpose of defrauding or attempting to defraud the policy holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies."

The application used in fourteen (14) of the fifty (50) files reviewed did not contain the required fraud statement. The Company failed to monitor and ensure that applications used by its agents contained a fraud statement.

4. Section 12-7-105, C.R.S. Reports and records required – bonding agents – division states:

- (1) Commencing November 1, 2000, each licensed bail bond agent shall provide a report to the division no later than November 1 of each year.

One (1) of the ten (10) agents examined failed to file the required annual report. The Company failed to monitor and ensure that its agents were filing the required report.

5. Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 12-7-108, C.R.S., Bonding agreement – requirements – payment schedule, states, in part:

- (2) Except for bond filing fees...and actual cost of storing collateral in a secure, self-service public storage facility, no bonding agent ... shall charge ... an amount more than fifteen percent of the amount of bail ...or twenty dollars, whichever is more.

Eight (8) of the fifty (50) files reviewed were posted for an amount of \$500. Five (5) of the eight (8) defendants were charged \$75 and three (3) were charged \$50. The Company failed to monitor and ensure that its agents were being consistent with the premium charged for bonds of like amounts.

**6. Section 10-2-704, C.R.S.: Fiduciary responsibilities, states in part:**

(1) (b) All premiums received, less commissions if authorized, shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.

Twelve (12) of the fifty (50) files reviewed indicated that the premium charged for the bond was a different amount than the premium reported to the company. Seven (7) were charged a premium of 10% and 15% was reported to the company, four (4) were charged 15% and 10% was reported. One (1) file contained four (4) bonds showing a premium of \$752.50 charged and \$495 reported to the company. The Company failed to monitor and ensure that its agents were reporting the same amount of premium being charged by them.

**Recommendation # 1:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-1-127, 10-2-704, 10-2-701, 12-7-105, 10-3-1104, C.R.S. and Regulation 1-2-1. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented procedures and practices related to the monitoring of all of its agents' activities to ensure compliance with Colorado insurance law.



**FACTUAL FINDINGS**

**PRODUCERS/AGENTS**

**Issue B: Failure, in some cases, of agents to fulfill fiduciary responsibilities by commingling funds.**

Section 10-2-704, C.R.S., Fiduciary responsibilities, states, in part:

(3) No insurance producer under this article shall commingle premiums belonging to insurers and returned premiums belonging to insureds with the producer's personal funds or with any other funds except those directly connected with the producer's insurance business.

Section 12-7-109, C.R.S., Prohibited activities - penalties, states, in part:

(1) It is unlawful for any licensee under this article to engage in any of the following activities:

(k) Accept anything of value from a person on whose bond such licensee is indemnitor or from another on behalf of such principal except the premium; except that the bail bonding agent licensed under this article may accept collateral security or other indemnity from the person on whose bond such bail bonding agent is indemnitor or from another on behalf of such principal. All such collateral or other indemnity shall be returned pursuant to the requirements contained in paragraph (d.5) of this subsection (1). The bail bonding agent licensed under this article shall preserve and separately retain such collateral and shall be responsible for the return of all such collateral taken and shall be liable for failure thereof as will also be the surety company. When a bail bonding agent accepts collateral as security pursuant to this paragraph (k), such bail bonding agent shall give a written receipt for such collateral to the person on whose bond such bail bonding agent is indemnitor or to another on behalf of such principal and the surety, which shall provide in detail a full description of the collateral received. In the event of the failure of or inability for any reason of a bail bonding agent or such bail bonding agent's heirs or assignees to return collateral as required in this paragraph (k), the commissioner or the commissioner's designee is authorized to take immediate possession of the collateral and take whatever actions are necessary and appropriate to assure compliance with the obligations of this article relating to the return of collateral. The commissioner is authorized to utilize any or all of the qualification bond required in section 12-7-103(3) for any costs incurred. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation. The commissioner shall forfeit a qualification bond in the amount necessary to pay any final, nonappealable judgment award for failure to return collateral, including costs and attorney's fees, if awarded.

Regulation 1-2-1, Concerning Agent Fiduciary Responsibilities, promulgated under the authority of §§ 10-1-108(8), 10-1-109, 10-2-220 and 10-3-1110, Colorado Revised Statutes (C.R.S.), states:

### III. Rule

(B) Upon receipt, the insurance producer must treat all premiums and returned premiums in a fiduciary capacity, including but not limited to the following:

- (1). Upon receipt the insurance producer must treat all premium and return premiums as trust funds and segregate them from his own funds, and
- (2). The insurance producer must keep an accurate record of all fiduciary funds, and
- (3). The insurance producer must not treat insurance premiums or returned premiums as a personal or business asset, and . . .

A review of the banking records of nine (9) of the ten (10) agents examined, indicated that one (1) of the agents may be commingling funds, as a separate fiduciary funds trust account was not being maintained. One (1) agent's banking records were not available. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Reviewed	Number of Exceptions	Percentage to Reviewed
29	10	9	1	11%

**Recommendation # 2:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-2-704 and 12-7-109, C.R.S. and Regulation 1-2-1. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to the handling of fiduciary funds received by agents to ensure compliance with Colorado insurance law.

**Issue C: Failure, in some cases, of agents to register assumed (trade) name.**

Section 10-2-701, C.R.S., Assumed names – registration, states:

Any insurance producer using an assumed name, including without limitation a trade or fictitious name, under which the insurance producer conducts business shall register the name with the insurance commissioner prior to using the assumed name. The commissioner shall not accept registration of any name that is similar to another currently on file, that would tend to be misleading to the public, or that is identical or similar to the name of any producer whose license has been revoked or suspended. Every insurance producer licensee shall promptly file with the commissioner a written notice of any change in or discontinuation of the use of any name. The commissioner may promulgate all rules necessary and proper to implement the provisions of this section.

Four (4) of the ten (10) agents examined were using trade names. One (1) failed to register the trade name he was using in the bail bond business. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Number of Exceptions	Percentage to Sample
29	4	1	25%

**Recommendation # 3:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-2-701, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to its agents registering an assumed name necessary to ensure compliance with Colorado insurance law.

**Issue D: Failure, in some cases, to have a fraud statement affixed to applications.**

Section 10-1-127(6)(a)(I)(7)(a), C.R.S.- Fraudulent insurance acts...fraud statement, states, in part:

On and after January 1, 1997, each insurance company shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, a statement in conspicuous nature, permanently affixed to the application, insurance policy, or claim form substantially the same as the following: "It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines denial of insurance, and civil damages. An insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policy holder or claimant for the purpose of defrauding or attempting to defraud the policy holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies."

The applications used in fourteen (14) of the fifty (50) files reviewed in the agents' offices did not contain the required fraud statement. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Number of Exceptions	Percentage to Sample
1701	50	14	28%

**Recommendation # 4:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-1-127, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to the provision of a fraud statement on all applications used by its agents to ensure compliance with Colorado insurance law.

**Issue E: Failure, in some cases, of agents to file annual bond reports with the Division of Insurance.**

Section 12-7-105, C.R.S. – Reports and records required – bonding agents, requires in part:.....

- (1) Commencing November 1, 2000, each licensed agent shall provide a report to the division no later than November 1, of each year.

DOI Bulletin 14-00 provides for companies to ensure agent compliance with the statute.

The annual report of bail bond transactions, due November 1, 2002, was not filed by one (1) of the ten 10 agents examined. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Number of Exceptions	Percentage to Sample
29	10	1	10%

**Recommendation # 5:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 12-7-105, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to the ensuring the agents file the required bail bond reports to ensure compliance with Colorado insurance law.

**Issue F: Failure, in some cases, of agents to charge the same premium for bonds of like amounts.**

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices: states, in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 12-7-108, C.R.S., Bonding agreement – requirements – payment schedule, states, in part:

- (2) Except for bond filing fees...and actual cost of storing collateral in a secure, self-service public storage facility, no bonding agent ... shall charge ... an amount more than fifteen percent of the amount of bail ...or twenty dollars, whichever is more.

Eight (8) of the fifty (50) files reviewed were posted for an amount of \$500. Five (5) of the eight (8) defendants were charged \$75 and three (3) were charged \$50. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Number of Exceptions	Percentage to Sample
1701	50	8	16%

**Recommendation # 6:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, CRS. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to the ensuring the agents charge the correct amount for premiums on bail bonds. The Company must file the rates for bail bonds with the Division of Insurance. If the Company wishes the flexibility to charge different premiums for bail bonds of the same amount, it is necessary to do a rate filing which states “up to 15%.”

**Issue G: Failure, in some cases, of agents to report to the Company, the same premium as was charged for the bond.**

Section 10-2-704, C.R.S.: Fiduciary responsibilities, states in part:

(1)(b) All premiums received, less commissions if authorized, shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.

Twelve (12) of the fifty (50) files reviewed indicated that the premium charged for the bond was a different amount than the premium reported to the company. Seven (7) were charged a premium of 10% and 15% was reported to the company, four (4) were charged 15% and 10% was reported. One (1) file contained four (4) bonds showing a premium of \$752.50 charged and \$495 reported to the company. This appears to be a violation of Colorado insurance law.

Population	Sample Size	Number of Exceptions	Percentage to Sample
1701	50	12	24%

**Recommendation # 7:**

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-2-704, CRS. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed, revised and implemented all procedures relating to ensuring the agents report to the Company the same amount of premium they charged for the bail bonds to ensure compliance with Colorado insurance law.



**Summary of Issues and Recommendations**

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Participated in this examination and in the preparation of this report